2026:AHC:227717

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL REVISION No. - 4298 of 2015**

Jai Prakash @ Jai Karan

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

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| Counsel for Revisionist(s) | : | Syed Wajid Ali, Rajendra Prasad |
| Counsel for Opposite Party(s) | : | Bhaskar Bhadra, G.A. |

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**Court No. - 86**

**HON'BLE JAI KRISHNA UPADHYAY, J.**

1. List revised.

2. None appears on behalf of opposite party no.2 whereas Sri Nisad Ahmad Hasmi, Advocate holding brief of Sri Syed Wajid Ali, learned counsel for the revisionist and learned A.G.A. are present.

3. This criminal revision has been filed against the judgement and order dated 09.11.2015 passed by Additional Sessions Judge/Special Judge (Anti-corruption), Court No. 2 , Bareilly in Criminal Appeal No. 44 of 2013 (Jai Prakash @ Jai Karan Vs. State of U.P.) as well as judgement and order dated 23.01.2013 passed by Additional Chief Judicial Magistrate-1st, Bareilly in Criminal Case No. 1989 of 2005, (State vs. Jai Prakash @ Jai Karan) arising out of Case Crime no. 2120 of 2005, under Sections 323, 324, 504 I.P.C., PS Baradari, District Bareilly, whereby learned Magistrate has convicted and sentenced revisionist under Sections 323, 324, 504 I.P.C. and learned lower appellate court has also dismissed the appeal filed by the revisionist affirming the conviction order passed by the trial Court.

4. Heard Sri Nisad Ahmad Hasmi, Advocate holding brief of Sri Syed Wajid Ali, learned counsel for the revisionist, Sri Sakeel Ahmad, learned A.G.A. for the State and perused the record.

5. The only submission on behalf of the revisionist is that for the offence under Section 324 I.P.C. the trial Court has sentenced accused-revisionist for two years out of which the revisionist had served incarceration of 28 days. It is submitted that neither accused revisionist is habitual offender nor was convicted in any other case. It is also submitted that revisionist is sole earning member of his family. Thus, it was submitted by learned counsel for the accused-revisionist that sentence awarded by the trial Court vide

impugned judgment and order be modified and accused-revisionist be released in this matter on the basis of imprisonment already undergone.

6. On the other hand, learned A.G.A. supporting the findings recorded by trial Courts in the impugned judgments and orders submitted that there is no infirmity or illegality in the impugned judgements and orders. Prosecution has proved its case beyond reasonable doubt. The trial Court has awarded sentence to the revisionist according to the gravity of the offence committed by him.

7. I have considered rival submissions made by learned counsel for the parties and have gone through the entire record carefully.

8. Since learned counsel for the accused-revisionist did not challenge the findings recorded by trial Court in the impugned judgment and order regarding guilt of accused-revisionist for the alleged offences and confined his argument only to the sentence awarded by trial Court to accused-revisionist, I do not propose to scrutinize the entire evidence minutely in this regard. However, a perusal of entire record including the impugned judgment and order shows that trial Court has considered in detail the entire evidence available on record regarding guilt of accused-revisionist for the said offences and keeping in view the offence committed by accused-revisionist, I am also of the opinion that prosecution was able to establish the guilt of accused-revisionist for the aforesaid offences beyond reasonable doubt. The findings recorded by the trial Court to constitute offence under Sections 323, 324 and 504 I.P.C. against accused-revisionist are correct and the same do not warrant interference by this Court.

9. So far as the question of sentence is concerned, it is a well settled principle that sentence must be just and should simultaneously follow the principle of proportionality between the crime and the punishment. Punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the court but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, manner of assault, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the

valuebased social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner.

10. It has been observed by the Hon'ble Apex Court that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor selfadhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which have been indicated hereinbefore and also have been stated in a number of pronouncements by Apex Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment. A court, while imposing sentence, has to keep in view the various complex matters in mind. In respect of certain offences, sentence can be reduced by giving adequate special reasons but the special reasons have to rest on real special circumstances.

11.Recently in the case of **Israfil @ Pappu @ Naimuddin Khan Vs. State of Madhya Pradesh, 2026 INSC 654,** the Apex Court held that while considering the question of sentence, the Court is required to balance the nature of the offence with the attendant facts and circumstances of the case, the role attributed to the accused, the period of incarceration undergone, the passage of time and other mitigating circumstances relevant to sentencing jurisprudence. The principle of proportionality remains central to the sentencing process. Sentencing cannot be reduced to a purely retributive exercise divorced from the factual matrix of the case and the overall circumstances of the offender. The Apex Court, in catena of cases before it, while maintaining conviction, had exercised its discretion and had reduced the substantive sentence considering long passage of time, absence of criminal antecedents and other mitigating circumstances.

12. In the instant case, the alleged incident took place above 20 years ago. Accused-revisionist alone cannot be held responsible for long delay in disposal of this case. Revisionist is not previous convict. Revisionist was on bail during trial of the case as well as during the pendency of the criminal appeal before the appellate court and he had never misused the liberty of

bail. It was stated that accused-revisionist remained in custody of 28 days. Considering all aspects of the matter, no useful purpose would be served by sending accused-revisionist to judicial custody at this stage, rather it would be appropriate that sentence of two years imprisonment awarded by the lower appellate Court be reduced to the period already undergone by him.

13. Accordingly, this criminal revision is **partly allowed** and the sentence awarded by the lower appellate Court is hereby reduced to the period already undergone by the revisionist. His personal and surety bonds are cancelled and sureties are discharged.

14. A copy of this order be transmitted to the court concerned.

**November 2, 2026**
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**(Jai Krishna Upadhyay,J.)**

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad